

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



February 19, 1992

ALL COUNTY INFORMATION NOTICE No. I-08-92

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: EXPIRATION OF 5-YEAR MORATORIUM ON FEDERALLY FINANCED
PUBLIC ASSISTANCE FOR IRCA ALIENS - IMPACT ON
ELIGIBILITY FOR AFDC AND FOOD STAMP PROGRAMS

REFERENCE: ALL COUNTY LETTER NO. 87-77
ALL COUNTY LETTER NO. 88-25 (Food Stamps)
ALL COUNTY LETTER NO. 89-07 (Food Stamps)
ALL COUNTY INFORMATION NOTICE NO. I-09-89 (AFDC)

This letter is a reminder to counties that May 5, 1992 is the first day that amnesty aliens granted permanent resident status under the Federal Immigration Reform and Control Act of 1986 (IRCA) can be federally eligible for AFDC and Food Stamps. Beginning with that date, the first of the IRCA aliens who have completed the 5-year period beginning with the date that they applied for amnesty will no longer be prevented by federal rules from receiving AFDC or Food Stamps.

The 5-year moratorium on federal assistance for an individual IRCA alien begins with the person's date of adjustment to temporary resident status (TRS) and ends 5 years later. May 5, 1992 will end the moratorium for the aliens whose date of adjustment to TRS is May 5, 1987. For individual aliens adjusted to TRS after that date, the end of the moratorium will be phased in over the next several years as the 5-year period for each individual alien is completed.

EVALUATING ELIGIBILITY FOR AFDC OF IRCA ALIENS WHO ARE MEMBERS OF
AFDC FILING UNITS ON THE 5TH ANNIVERSARY OF ADJUSTMENT TO TRS

To comply with the requirement that members of a filing unit who must be included in the assistance unit (mandatory inclusion rule, MPP 82-820.3) be aided, counties must identify each of the potentially eligible IRCA alien members of existing filing units before the 5th anniversary of the individual's date of adjustment to TRS. Eligibility should then be evaluated at a time that makes it possible to add this person to the assistance unit as of the date of the 5th anniversary, if the alien is determined to be eligible.

This IRCA alien can be identified by the following characteristics:

- o Is living in the home of a family receiving AFDC, and
- o Has applied for and received amnesty under the IRCA law, and
- o Has been adjusted to permanent (as well as temporary) resident status, and
- o Is a person mandatorily included in an Assistance Unit (MPP 82-820.3), and
- o Is otherwise eligible.

In most situations, this person previously will have received a Notice of Action denying assistance for the reason that he/she was ineligible as the result of the 5-year rule, and Immigration and Naturalization Service (INS) identifying documents will be in the case file.

INS DOCUMENTATION

The potentially eligible IRCA alien typically will have evidence of lawful permanent resident status in the form of an Alien Registration Receipt Card, Form I-551. This person can be identified as an IRCA alien by means of the codes appearing on the I-551 or other INS documents. The codes for Section 245A aliens are W16, W26, and W36, and the codes for Special Agricultural Workers (SAWS) are S16 and S26.

The alien's 5-year period of ineligibility, according to United States immigration law, begins with the date the alien was "granted lawful temporary resident status". On INS documents, this date is generally referred to as the "date of adjustment to temporary resident status". This date of adjustment to temporary resident status is the beginning date that counties should use in determining the beginning of each alien's 5-year period of ineligibility for aid.

We have been informed that the Temporary Resident Adjustment Date is the date that the alien paid his/her fee when originally applying for amnesty. It is the date of the receipt for the payment of this fee. The receipt is INS Form I-689.

Several means exist for counties to determine and verify this date. Counties should use the means most readily available in order to get this information.

Two different versions of the I-551 have been used during the time frame that affects IRCA aliens. The date that begins the 5-year period is shown on at least some examples of the earlier version of the card as the "temporary resident adjustment date." This date is shown on the bottom line of the back of the card in this format: "TEMP RES ADJ DATE -", followed by the date. The current version of the I-551 does not show this date.

When this date is not on the alien's I-551, the county may check the case file for a copy of the I-689 Fee Receipt or other documentation that establishes the date of adjustment to temporary resident status (TRS). The TRS adjustment date would be the date of the receipt. It is possible that the alien kept the Fee Receipt and could provide it on request.

A copy of the Temporary Resident Card, INS Form I-688 may be found in the case file, but this card does not provide verification of the TRS adjustment date.

THE SAVE SYSTEM

With regard to the Secondary SAVE (Systematic Alien Verification for Entitlements) System, status verifiers (those that provide you with the response to your verification requests using the G-845 Form) are being instructed by INS to provide you with the TRS adjustment date on individual requests IF YOU REQUEST THIS DATE as a part of your Form G-845 inquiry. It is expected that by the time that you receive this letter these instructions to the status verifiers will be in place.

The INS Form G-845 does not provide a specific space for requesting the TRS adjustment date. The following suggestion is made for requesting the date, as a means of helping assure that your request is noticed and acted on:

At the top of the G-845, in the right column is a large box headed, "8.(Benefit)". The bottom 1/3 of the box provides a blank space which is an appropriate place to insert the following message:

Status Verifier: Please provide the date
of adjustment to temporary resident status.

With regard to the primary SAVE System, INS is currently studying the feasibility of providing the TRS adjustment date as a standard part of the primary SAVE response to counties. If, and when, this information is provided, you will know about it when you see it begin to appear in the primary SAVE responses to your inquiries.

FOOD STAMP CONSIDERATIONS

For Public Assistance Food Stamp cases, counties should determine the eligibility/ineligibility of these aliens concurrently with the AFDC case review. Changes resulting from the addition of these individuals as household members should be treated in accordance with MPP 63-504.353.

Nonassistance Food Stamp cases must have their eligibility evaluated either when the alien reports to the county that he/she has gained permanent resident status or at recertification. Therefore, the county IS NOT REQUIRED to attempt to identify those aliens who might be eligible beginning on May 5, 1992. Since this identification is not required, the county is not obligated to restore benefits back to that date when the alien first became potentially eligible.

As with the Public Assistance cases, those IRCA aliens who are found to be eligible to participate in the Food Stamp Program with their households should be added in accordance with MPP 63-504.353. In either instance, if the alien refuses to cooperate (out of fear of jeopardizing his/her immigration status or for some other reason) he/she is still considered an ineligible alien and the income and resources of that person are handled per MPP 63-503.442.

Since the county is not required to identify these aliens, a quality control (QC) error will not exist if the case is reviewed before the alien is added to the household. There is also no QC error if the alien refuses to cooperate, thereby retaining his/her illegal status. The case would be in error, however, if the procedures to determine and verify eligibility and benefit levels have not been followed.

If you have questions on issues of this letter relating to Food Stamps, please contact Michael Jones of the Food Stamp Program Bureau at (916) 654-1065 or CALNET 464-1065. For questions relating to AFDC, contact John Honeycutt of the Welfare Policy Implementation Bureau at (916) 654-1077 or CALNET 464-1077.


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